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August 6, 1964

MEMORANDUM

TO: Mr. J. Lee Rankin, General Counsel

FROM: Howard P. Willens

SUBJECT: Chapter IV - Draft dated 7/31/64

I think that this Chapter needs substantial revision. I suggest the following comments for your consideration.

1. As a matter of general style, this Chapter is different from any of the other chapters and should be brought into conformity. I have the following specifics in mind:

a. The headings and subheadings used in the table of contents and in the text of the chapter should be phrases rather than sentences.

b. Marina Oswald and Lee Harvey Oswald are occasionally referred to as Marina and Lee Oswald. I do not think that Marina Oswald should ever be referred to as Marina and believe that Oswald should be referred to as Oswald or as Lee Harvey Oswald.

c. I do not think that we need to use the prefix Mr. in the text of the Report.

d. For witnesses who have appeared before the Commission or members of the staff, I believe we should use the past tense when referring to their testimony rather than the present perfect, i.e., "testified" rather than "has testified".

e. In many sections of the chapter there is an inadequate introductory paragraph setting forth the conclusions documented in the subsequent discussion. The paragraphing in the chapter needs watching, since there is no consistent handling of paragraph length.

cc: Mr. Willens
Mr. Redlich
Mr. Goldberg

2. In view of the importance of the chapter, I think that we can afford more than a single long paragraph as an introduction to the overall chapter. This would permit the Commission to speak in the introduction of the other evidence considered in the chapter, but not relied upon, although I have other suggestions to make regarding the handling of this material.

3. I still have a question about the validity of including as a minor finding Oswald's capability with a rifle. I think our case remains the same even if Oswald had limited or negligible capability with a rifle. In a way, we are emphasizing an argument we don't particularly need, which prompts controversy and may tend to weaken the stronger elements of our proof. I believe that this material should be discussed somewhere, and probably in this chapter, but I question whether it should be elevated to one of our eight major conclusions on which the Commission relies. An alternative to consider might be to place the question of Oswald's capability as a subheading to one of the first two major conclusions.

4. I think that the first major section should be entitled solely "The Assassination Weapon". The first subheading should be "Purchase of Rifle by Oswald". The subsequent discussion should set forth the conclusion of the Commission that Oswald purchased the rifle based on (a) handwriting analysis of the rifle purchase documents, (b) Oswald's rental of P. O. Box 2915, (c) prior use of alias Hidell.

5. On page 4 I do not see the significance of the first full paragraph, with the exception of the first sentence. We know that Oswald lived in Dallas at the relevant time and I do not believe it is significant that Oswald did not receive mail from the box after he left Dallas for New Orleans on April 23.

6. The next major subhead should be the section beginning on page 6 dealing with Oswald's palmprint. I think there should be some reference here to the fact that palmprints are as good a basis for identification as fingerprints, plus an appropriate reference to the appendix.

7. In the third line from the bottom of page 8 the meaning of the word "lifted" is not clear to the lay reader. Similarly with the reference to the "powder" in the second line on page 9. The last sentence of the first full paragraph on page 9 might be combined with the prior statement on page 8 about the metal of the rifle in a separate paragraph offering an explanation for the lack of fingerprints on the rifle, assuming recent use. If there are any statistics or other evidence on this point, I think they should be set forth and explained. This is a more controversial matter than I believe we have considered.

8. The section on fiber analysis lacks a conclusion in the text as opposed to the subheading. On page 10 in the second line, I do not think that the fibers in the shirt he was wearing should be described as "similarly colored" at this point.

9. With regard to the section beginning on page 10 we should consider reorganizing the discussion as follows.

First paragraph - Covering Marina's testimony on pictures including dates, places, number, etc.

Second paragraph - Setting forth the Commission's conclusion that the pictures were in fact taken with Oswald's camera at Neely Street, and are not superimposed.

Third paragraph - Dealing with the conclusion that the rifle in the picture is Lee Harvey Oswald's rifle. If this reorganization is not adopted at the very least there should be an introductory paragraph setting forth the conclusions reached by the Commission regarding these pictures.

10. With regard to the last paragraph on page 13 I would consider mentioning the name of the magazine. I also think some reference should be made to the fact that the Commission has examined these pictures and reached certain conclusions regarding the curvature of the stock problem and the scope situation. In short, I think it is necessary to expand this discussion.

11. I am concerned by the lack of introduction to the section beginning on page 13a and the fact that the conclusions drawn here seem to me somewhat elusive. If we are stating only that he was on the 6th floor 35 minutes before the shots were fired, that is one thing. If we are going to rely on Brennan in part, then we should state a conclusion at the beginning of this section which reflects our analysis of the eyewitness testimony. I realize that the "domino" point has a colorful history, going back several months, but I am not persuaded that it contributes very much.

12. It might be desirable prior to examining the scientific evidence to have a short section dealing with the site, setting forth the descriptive material now contained on page 14 and including other material in the chapter describing the cartons which were used to construct a barricade from the rest of the floor.

13. There still is a little too much of the [illegible] approach in this for my taste. For example, on page 14 I do not see why the reader has to know the cartons were forwarded to the Federal Bureau of Investigation for chemical processing, since subsequent testimony demonstrates that. Similarly, on page 15 the finding of the palmprint by Lt. Day is of no particular significance.

14. The conclusion sought to be drawn from this section seems to me to go too far. I do not know why we place "great" weight on the fingerprint and palmprint identification to prove he was at the window. The basic question is when he was at the window and when we come near to that question we back away from it. Furthermore, we never do make an effort to refute the many other possibilities for these fingerprints which are consistent with Oswald's innocence.

I would consider combining the section on the paper bag with the section on the cartons. The section on the paper bag also lacks a topic sentence pointing out the conclusion. I wonder why we have the description of the paper bag here since it could be a sandwich bag and still be used to make the point that is involved here. I question whether the whole section on carrying the rifle into the TSBD should not be before this "scene-presence". That organization would permit us to introduce the paper bag in the most appropriate context.

15. Much of the material in the first full paragraph of page 17 should be relegated to the Appendix as far as I am concerned.

16. If we have any testimony as to the state of the southeast corner early in the morning, I think it should receive greater emphasis in the text, since it provides greater support for linking Oswald with the cartons and bag found in the corner after the assassination.

17. In the section on eyewitness identification, we should make some reference back to chapter 3 and Brennan's testimony there.

18. On page 21 the fact that another eyewitness identified Oswald in a way similar to Brennan does not seem to me to help support Brennan's identification. I would eliminate this comparison here and perhaps make a reference to it later on when the Tippit shooting is discussed.

19. Throughout the discussion of Brennan's testimony we should reaffirm his testimony as to the source of the shots. On page 93 I think we go out of our way to qualify the Commission's reliance on Brennan's testimony. I see no reason why we should pick Brennan out as the subject for the second paragraph on page 93. He is a good witness despite his declination to identify Oswald positively in the police lineup. Why not place this paragraph at the end of the entire section on eyewitness testimony. The record on Brennan speaks for itself. The last sentence in this paragraph is obvious, since we have stated several times that our findings that Oswald is the assassin is based on many different categories of evidence.

20. It seems to me that the last paragraph on page 93B gives Fischer and Edwards more weight than Brennan. At least they are blessed with the "consistent with" characterization, which I think is overworked in this chapter.

21. I have substantial problem with the section beginning on page 94. I would consider placing the first subsection, dealing with the rifle's location in the Paine garage, in the first section of the chapter dealing with Oswald's ownership and continued possession of the rifle. I do not think that this discussion here is necessary to the argument that he carried the rifle in on Friday. Also the testimony discussed here is more relevant here to the possession of the rifle than it is to the location of the rifle in the Paine garage. The first of these two points is the more important conclusion and it should be bolstered by all available evidence.

22. I do not follow the argument contained in the first full paragraph of page 94. We do not have to prove that Oswald never took the rifle out of the garage in order to make the point that the garage was the usual storage place. I would consider eliminating the paragraph entirely.

23. After the above relocation of the Paine garage section, I would consider organizing this section as follows.

First Conclusion: The paper bag contained the assassination weapon.

Second Conclusion: Lee Harvey Oswald carried this bag to work.

(a) He made the bag from TSBD materials;
(b) He had the opportunity to make the bag;
(c) He carried this bag on Friday;
(d) He had handled the bag.

Third Conclusion: He lied about the curtain rod story and the paper bag.

On reviewing this again I am persuaded once more that this entire section should go before the section dealing with Oswald's presence in the window.

24. The discussion at the bottom of page 27 regarding disassembling seems to have limited relevance. I would consider combining the paragraph with the one at the end of this subsection.

25. On page 32 I question the relevance of the last sentence of the first full paragraph dealing with the location of the bag. I do not see how this is relevant to the conclusion that the bag contained the rifle. If this point is to be made, I think it should be made as part of the general description of the assassination scene as proposed in one of my earlier comments.

26. The third line on page 33, I do not think that the meaning of the word "matched" is clear.

27. I think that the way that the Frazier-Randle testimony is handled at pages 38-40 may well be the best possible way. It does occur to me, however, that under my proposed reorganization this testimony would be pertinent to the conclusion whether the bag contained the assassination weapon. Perhaps the organization should be changed so as to prove first that Oswald carried the paper bag to work, and then turn to the question whether the bag contained the assassination weapon. The Frazier-Randle testimony could then be set against the scientific evidence as well as the other evidence bearing on this issue.

28. The characterization of the killing of Tippit on page 42 as a desperate act of escape may be true, but I would like to discuss this further. Perhaps this point could be made in the overall introduction or conclusion of the chapter after all the other evidence is set forth.

29. On page 47 I would not begin the discussion of the eyewitnesses with Helen Markham. On page 46 I think we should have at least a paragraph on Helen Markham's alleged description of Oswald as "short, stocky and bushy-haired."

30. The sentence at the bottom of page 59 is not necessary here in view of the introductory paragraph which is contained in this subsection.

31. The discussion at pages 60-64 gives me some difficulty. I do not see why we have to proceed witness by witness in making the points to be made here. I would suggest that the paragraphs might be along these lines.

a. Lee Harvey Oswald entered the theater at such and such a time.

b. Police officers were summoned to the scene and entered the building.

c. Lee Harvey Oswald was apprehended and in the course of this may have attempted to kill the arresting officer.

d. Excessive force was not used by the police officials.

32. I am still troubled by the location of the section dealing with the interval of time between the assassination of President Kennedy and the murder of Officer Tippit. Once we have found that he did both acts, what could have happened in the interval which would be "inconsistent with" his having done them. In other words, once you prove that he did both acts what is the relevance of speaking of the intervening events. If there is anything in the intervening events which sheds doubt on his committing either of the two acts, that is a different matter. In that event, the activity during the intervening period would be an element of evidence to be weighed in reaching the conclusion as to whether the actor is guilty of the crime in question. That is not our case here. The end result of this thinking may be the suggestion that this section be treated in chronological fashion after the assassination of President Kennedy and prior to the case against Oswald for the murder of Tippit.

33. Regardless of where it is located, I think that the first paragraph of the section should state the basic conclusions regarding Oswald's movements during this period of time. For example, the Commission concludes that Oswald went from the 6th floor to the 2d floor by the stairway, through the lunchroom and out the front door of the building before 12:33 when the building was not closed off. He then took a bus and a taxi, went to his apartment, and proceeded to the site of the Tippit killing.

34. I do think that we should conclude that Oswald was in the process of flight or at least that some of the events suggest that he was.

35. With the above recommendation in mind the testimony beginning at page 72 would be handled differently. This testimony would be set forth and appraised on the issue as to how and when Oswald descended from the 6th floor. In such a discussion the Commission would rely on some witnesses and reject the testimony of others, such as Victoria Adams.

36. On page 74, I think that we have to do something more with the Lovelady picture. It occurs to me that we should probably do a paragraph or section dealing with Oswald's known whereabouts at 12:30. In setting forth the limited amount of evidence as to his whereabouts at this time we could reject the allegation that the picture in question shows him standing in the doorway at the time of the assassination.

37. With regard to the treatment of the General Walker shooting, I think that we need a paragraph summarizing the investigation, or lack of it, conducted by the Dallas Police Department after the Walker shooting. We also should set forth briefly the fact that Walker initiated an investigation into the matter. Our conclusion that Oswald was probably responsible builds of course on the fact that it was an unsolved crime. We have to make some reference to the investigation made by [illegible] and [illegible]. Their statements regarding Duff should be made part of the record and have been collected by Liebeler.

38. I am of the mind now that there should be no other evidence section at the end of the chapter. This means that we have to find a place for each of the subsections. I think that the paraffin tests discussion should be set forth early in the Report after the discussion of Oswald's ownership of the rifle. It would be set forth by the Commission in a frank statement that the Commission has no scientific evidence as opposed to eyewitness and circumstantial evidence that Oswald fired the rifle on November 22.

39. I would eliminate the section now labeled clothing identification and make the point in the course of setting forth the testimony of the Tippit witnesses. It is clear enough what the Commission relies upon and what it does not rely upon and we do not need this section.

40. The Nixon attempt problem presents a more difficult problem. I would consider discussing this under the same heading as the General Walker shooting so as to cover all prior similar acts in one section. In the course of that section we could state our reasons supporting the conclusion that he fired at General Walker and why we

believe he did not attempt to shoot Nixon. An alternative to this would be to make reference to this incident only by a single sentence in Chapter 4 and treat it more fully in Chapter 7, as an illustration of Oswald's personality and treatment of his wife. I do not think it should be handled at the end of this chapter.

41. The section drafted by Mr. Liebeler on the Irving Sports Shop story can be handled earlier in the chapter dealing with the ownership of the rifle. I think it is reasonable to set forth the evidence supporting the conclusion that Oswald owned and handled this weapon and make the point also that the Commission has no credible evidence that Oswald owned another rifle. It also might be worked in where we state that the rifle was shipped with the scope already on.